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REMARKS

The Examiner has issued an Election of Species requirement and identified the following seven species:

A lead/catheter comprising:

- I. a secondary connector and secondary lumen;
- II. an alternate passageway;
- III. a secondary passageway;
- IV. an impregnated distribution device;
- V. first and second distal sections;
- VI. first and second lumen;
- VIII. agent transfer through the annulus area between the guidewire and the lumen in the lead.

Applicant respectfully traverses the requirement, the grounds on which the requirement is presented, and the manner in which the requirement is presented.

When making an Election of Species, the Examiner has the burden of identifying each of the disclosed species. Typically, this include a breakdown of species as illustrated in particular figures, examples in e.g., chemical applications, or less preferably by identifying distinguishing characteristics of the species. MPEP 809.02(a).

In the present case, the Examiner has identified seven species based on a two to fourteen word description for each species crafted by the Examiner. While the words used by the Examiner certainly appear in the specification, the descriptions do not clearly and unambiguously define separate species, even if distinct species are in fact present in the application. For example, one species is defined by the Examiner as having an "alternate passageway" as opposed to a "secondary passageway."

There is significant overlap between the "species" identified by the descriptions. Applicant respectfully asserts that it would be improper to require classification of claims, which may lead to a narrowing definition of a given term based on such vague "definitions" imposed by the Examiner. For example, a

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particular embodiment may be described (in the specification) with a "secondary passageway" and another embodiment may have been described with an "alternate passageway." Either "alternate", or "secondary" or another word for that matter may be use in a claim that could be read on either or both of these embodiments.

In summary, by providing this vague textual description of various "species", the Examiner is effectively attempting to improperly define, classify and subdivide the application in a manner neither offered by nor approved by the Applicant. Thus, attempting to distinguish claims based on such arbitrary classifications seems entirely inappropriate. Applicant respectfully requests the withdrawal of the requirement, in its entirety and requests examination of the complete claim set.

Applicant is aware that this response must include an election and does so under protest. To that end, Applicant elects Species III as identified above.

Claims 1-11, 19-27, 29, 30, and 31 are, in fact, generic to all of the above species. Claims 12-18 and 28 are sub-generic and apply to species I-VI. Thus, claims 1-31 should be examined with respect to elected species III. Should the Examiner have any questions regarding Applicant's classification of claim, the Examiner is respectfully requested to telephone the undersigned prior to any subsequent action on the merits.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

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